

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Blanca Aguilar,
Plaintiff

v.

Riviera Holdings Corporation dba Riviera Hotel and
Casino, et al.,
Defendants

Case No.: 2:15-cv-01291-JAD-CWH

**Order Dismissing Case Without
Prejudice Under FRCP 4(m)**

Plaintiff Blanca Aguilar brings this lawsuit against the Riviera Holdings Corporation dba Riviera Hotel and Casino, alleging that defendant violated wage-and-hour laws under the Fair Labor Standards Act and Nevada law.¹ A summons was issued for the defendant on July 9, 2015,² but there is no evidence in the record that the defendant was served with process. So on November 30, 2015, the court sent plaintiff a notice that this action would “be dismissed without prejudice” unless she filed proof of service on the defendant by December 30, 2015.³ Plaintiff was warned that “[f]ailure to comply with this Notice shall result in automatic dismissal of the action without prejudice.”⁴

FRCP 4(m) requires a plaintiff to complete service of the summons and complaint within 120 days of the complaint’s filing. “If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”⁵ Rule 4(c) further provides that “[t]he plaintiff is responsible for having the summons and complaint

¹ ECF 1.

² ECF 3.

³ ECF 6.

⁴ *Id.*

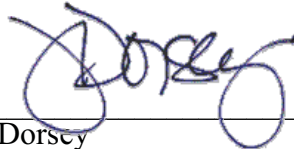
⁵ Fed. R. Civ. Proc. 4(m).

1 served within the time allowed under Rule 4(m).”⁶

2 Plaintiff has failed to provide the required proof of timely service. Exercising its discretion,
3 the court now dismisses this case without prejudice under Rule 4(m).

4 Accordingly, with good cause appearing and no reason for delay, IT IS HEREBY
5 ORDERED, ADJUDGED, AND DECREED that this action is **DISMISSED WITHOUT**
6 **PREJUDICE** and in its entirety under Fed. R. Civ. Proc. 4(m). The Clerk of Court is directed to
7 close this case.

8 DATED: January 19, 2016

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12 Jennifer A. Dorsey
13 United States District Judge
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⁶ Fed. R. Civ. Proc. 4(c).